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*Attorneys for Plaintiff  
Federal Deposit Insurance Corporation, as Receiver for  
America West Bank, L.C.*

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION

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**THE FEDERAL DEPOSIT INSURANCE  
CORPORATION as receiver of AMERICA  
WEST BANK, L.C.**

Plaintiff,

v.

**DOUGLAS M. DURBANO**, an individual,  
and the **DURBANO LAW FIRM, P.C.**, a Utah  
professional corporation

Defendants.

Case No. 1:09-cv-56

**REPLY IN SUPPORT OF MOTION TO  
UNSEAL**

**FILED UNDER SEAL**

**LODGED WITH THE COURT UNDER SEAL  
PURSUANT TO 2009-05-04 "ORDER SEALING CASE"**

Plaintiff, the Federal Deposit Insurance Corporation, as receiver of America West Bank, L.C. (FDIC-Receiver), respectfully files its reply in support of its motion to seal.

The FDIC's brief sets out its rationale for the motion, both in terms of legal standards under DUCivR 5-2 and the practical reasons relating to proceedings in Case 2:16-cv-326. Although defendants, in their opposition, contest the relevancy of the sealed documents to Case 2:16-cv-326, that is for Judge Oberg to decide,<sup>1</sup> and defendants offer no reason that warrants continued sealing of this case. FDIC-Receiver further notes that on May 10, 2021, plaintiff filed a short form motion to compel FDIC-Receiver to produce the very server that was at issue in this case. A copy of that filing is attached as an exhibit to this motion (minus the exhibits). FDIC-Receiver's opposition is due Monday, May 17, 2021. Several of the filings from this case will be submitted as exhibits to FDIC-Receiver's opposition and referenced in arguments. To be sure, FDIC-Receiver anticipates Judge Oberg will decide the motion to compel, but absent a court order unsealing this case before Monday, FDIC-Receiver will have to submit sealed filings in Case 2:16-cv-326. If there is a later hearing on the motion, that may have to proceed under seal as well and, as explained in FDIC-Receiver's motion, the circumstances that necessitated sealing the proceedings in 2009 no longer exist. A proposed order is attached.

Dated: May 13, 2021

Respectfully submitted,

*/s/ Andrew J. Dober*  
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<sup>1</sup> Motions in 2:16-cv-326 have been referred to Judge Oberg.

**CERTIFICATE OF SERVICE**

I, the undersigned counsel for the Federal Deposit Insurance Corporation, as Receiver for America West Bank, certify that on May 13, 2021, I filed the foregoing Reply in Support of Motion to Unseal by email to the clerk's office, and, certify that, a true and accurate copy of this motion was sent to Douglas Durbano and the Durbano Law Firm by email and mail.

*Andrew Dober*  
Andrew Dober